

AN ORDINANCE **100780**

AMENDING THE PROJECT AGREEMENT WITH HOTEL INVESTMENTS, L.P. FOR THE DESIGN AND CONSTRUCTION OF A FULL-SERVICE HEADQUARTERS HOTEL AND RELATED PARKING (THE "CONVENTION CENTER HOTEL PROJECT") APPROVED BY CITY COUNCIL PURSUANT TO ORDINANCE NO. 100686 ON APRIL 14, 2005 IN ORDER TO ASSIGN RESPONSIBILITY FOR COSTS ASSOCIATED WITH THE PAYMENT OF PREVAILING WAGES, CONTINGENT UPON A FINAL DETERMINATION OF THE APPLICABILITY OF CHAPTER 2258 OF THE TEXAS GOVERNMENT CODE TO THE PROJECT.

* * * * *

WHEREAS, pursuant to Ordinance No. 100686 dated April 14, 2005, City Council approved a series of agreements with Hotel Investments, L.P. for the design and construction of a full-service headquarters hotel and related parking (the "Project") adjacent to the Henry B. Gonzalez Convention Center, including a Project Agreement and Ground Lease; and

WHEREAS, on this same day, a lawsuit was filed against the City of San Antonio by the San Antonio Building and Construction Trades Council (SATBC) and Bob Salvatore IN HIS CAPACITY AS President of SATBC, in Bexar County, Texas District Court seeking a declaratory judgment that the Prevailing Wage Rate Act (the "Act"), Chapter 2258 of the Texas Government Code, applies to the construction of the Project; and

WHEREAS, in order for the previously established Convention Center Hotel Corporation to issue bonds on the timetable authorized by City Council on April 14, 2005, the City and Hotel Investments, L.P. have negotiated the terms of an amendment to the previously approved form of Project Agreement, which amendment apportions incrementally increased per diem wage rate costs actually incurred for construction of the Project due to the applicability of the Act between the City and Hotel Investments, L.P. and provides the method for the City to fund its share of such costs that are eligible for reimbursement by the City, but only in the event the plaintiffs in above case prevail in their lawsuit or the Attorney General of the State of Texas opines that the Act applies to construction of the Project in response to an inquiry to be requested on behalf of the City; and

WHEREAS, such modification to the previously approved form of Project Agreement must now be approved by City Council; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council hereby approves the terms and conditions of an amendment to the form of Project Agreement, which is comprised of inserts to the Project Agreement (specifically,

a new Section 7.9.6, Section 14.8, and Section 3(d) in Appendix B, together with associated new defined terms), in which the City agrees on a contingent basis to reimburse Hotel Investments, L.P. in an amount equal to the lesser of (i) the Available Reimbursement Funds and (ii) the Demonstrated Net Wage Cost Increase, where "Available Reimbursement Funds" means the lesser of (i) the sum of the Permit Fees, the Air Rights Payments and the Eligible Costs and (ii) Seven Million Five Hundred Thousand and No/100 Dollars (\$7,500,000.00), and "Eligible Costs" means those costs actually incurred by Hotel Investments, L.P. to perform the Donated Improvements Work, but only to the extent Hotel Investments, L.P. complies with Section 7.9.6 of the Project Agreement in obtaining the performance of such work. All capitalized terms used but not defined in this paragraph shall have the meanings given to them in the Project Agreement.

The Interim City Manager, or his designee, is authorized to execute said Project Agreement, as amended by means of the addition of the inserts attached in the form of Exhibit I.


SECTION 2. In connection with the expenditure of funds for the Donated Improvements, the City hereby delegates to Developer, as its designated representative, the City's authority and administrative task of complying with the Procurement Statutes under Section 271.114(a) of the Texas Local Government Code.

SECTION 3. This Ordinance shall become effective immediately upon passage by eight (8) affirmative votes.

PASSED AND APPROVED, this 28th day of April, 2005.


M A Y O R

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

Agenda Voting Results

Name: 17.

Date: 04/28/05

Time: 06:26:01 PM

Vote Type: Multiple selection

Description: An Ordinance amending the Project Agreement with Hotel Investments, L.P. for the design and construction of a full-service headquarters hotel and related parking (the "Convention Center Hotel Project") approved by City Council pursuant to Ordinance No. 100686 on April 14, 2005 in order to assign responsibility for costs associated with the payment of prevailing wages, contingent upon a final determination of the applicability of Chapter 2258 of the Texas Government Code to the Project.
[Presented by Christopher J. Brady, Assistant City Manager; J. Rolando Bono, Interim City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9	Not present			
CHIP HAASS	DISTRICT_10	Not present			
MAYOR ED GARZA	MAYOR		x		